

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BARNS & FARMS REALTY LLC,

Plaintiff,

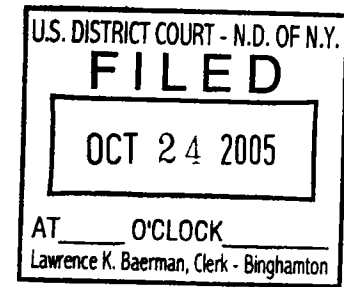
-against-

RONALD BERMAN and BERNICE BERMAN,

Defendants.

ORDER

Civ. Action No.: 05-CV-0386



WHEREAS, the above-captioned plaintiff moved for summary judgment against the defendant pursuant to Fed. R. Civ. P. 56 on August 30, 2005 [Document No. 12];

WHEREAS, the plaintiff's motion for summary judgment was supported by the Declaration of David Birch with Exhibits "A" through "B" [Attachment No. 1 to Document No. 12], the plaintiff's Statement of Material Facts [Attachment No. 2 to Document No. 12] the plaintiff's Memorandum of Law in Support of Summary Judgment [Attachment No. 3 to Document No. 12], and the plaintiff's Reply Memorandum of Law in Support of Summary Judgment [Document No. 17];

WHEREAS, the defendants opposed the plaintiff's motion for summary judgment, and the defendants' opposition papers included the Affidavit of Ronald Berman with Exhibits "A" through "T" [Document No. 14], the defendants' Memorandum of Law in Opposition to Summary Judgment [Document No. 13], and defendants' Response to Statement of Material Facts [Document No. 15];

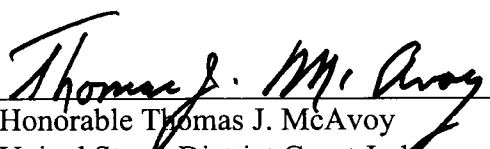
WHEREAS, the parties appeared before the Court for oral argument on the motion for summary judgment on October 11, 2005 at 10:00 a.m.;

WHEREAS, the Court recited its decision on the motion for summary judgment orally, in open court before a stenographer at the close of argument on October 11, 2005 (the "Decision").

NOW, THEREFORE, it is hereby ORDERED that the plaintiff's motion for summary judgment is DENIED for the reasons set forth in the Court's Decision, the Court having found that there remain questions of material fact.

So Ordered.

October 24, 2005



Honorable Thomas J. McAvoy
United States District Court Judge
Northern District of New York